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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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January 26, 2010

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F St., NE
Washington, DC 20549

Dear Chairman Schapiro:

Per the following announcement, we note with interest that the Securities and Exchange Commission evidently has concluded that, having permitted the now-imprisoned Bernard Madoff to bilk as much as \$50 billion from trusting investors, it will now turn its investigative eye toward global warming instead of investor protection.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold an Open Meeting on January 27, 2010 at 10:00 a.m., in the Auditorium, Room L-002.

The subject matter of the Open Meeting will be:

Item 1: The Commission will consider a recommendation to adopt new rules, rule amendments, and a new form under the Investment Company Act of 1940 governing money market funds, to increase the protection of investors, improve fund operations, and enhance fund disclosures.

Item 2: The Commission will consider a recommendation to publish an interpretive release to provide guidance to public companies regarding the Commission's current disclosure requirements concerning matters relating to climate change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Elizabeth M. Murphy
Secretary

As we understand them, plans under consideration by the Commission evidently call for corporations to be required to explain how they are alleviating global warming, with the SEC's mechanism for enforcement being an "interpretive release" to be distributed to companies that are coincidentally subject to punishment by the Commission for regulatory infractions.

As you know, an "interpretive release" hasn't the full force of law but it is necessarily considered by wise corporations as absolutely binding. Additionally, it has the glorious advantage of effectively functioning as a formal rule without the inconvenience of a formal rulemaking process, thereby skirting the time-consuming business of collecting, reading and considering comments from the public. Furthermore, from press accounts, we understand from your spokesman John Nester that the guidance would be effective immediately upon publication, since it is guidance, not a rule change.

Had the colossal failure of the Commission to notice the Madoff Ponzi scheme after six separate and substantive tip-offs not occurred, and even if you had not overlooked a top SEC official's romantic involvement with Mr. Madoff's niece during that disgraceful episode, we would be troubled by an undertaking which seems so transparently political and such a breathtaking waste of the Commission's resources.

Needless to say, we have some questions:

- As recently reported in *The Washington Post*, the agency has overlooked problems that are well within its jurisdiction on repeated occasions during recent years. Are your priorities now to shift from verifiable effectiveness in exercising jurisdiction over investment matters to overseeing corporate participation in global warming abatement?
- What is your statutory authority for assembling an interpretive release on global warming?
- Given that there is no current federal law on the subject of global warming and no evident impact on corporate profits and losses, how does a corporation's action on global warming relate to the safety and security of its investors? How could corporate action under these facts be material to a corporation's financial condition and require disclosure under the securities laws?
- On October 2, Commissioner Walter stated that the SEC is "not an agency populated with climate experts." How many environmental scientists are currently employed at the SEC?
- We understand that you have received petitions from organizations with extensive social agendas to abrogate your primary mission of protecting investors from corporate fraud. What is your statutory obligation to shift priorities to accommodate social action agendas?

- Do you anticipate that registrants will be subjected to civil lawsuits for non-compliance with a global warming interpretive release?
- Do you anticipate that registrants will be subjected to criminal penalties for non-compliance with a global warming interpretive release?


To remind the Commission of what its malfeasance cost in the Madoff case alone, I would mention that Mr. Madoff's victims included the following:

1. The Elie Wiesel Foundation for Humanity, which lost \$15,200,000.
2. The SAR Academy, a Yeshiva school in New York that lost one-third of its \$3.7 million endowment.
3. Phyllis Molchatsky, an individual investor who lost \$17,000,000.
4. The Diocese of St. Thomas Catholic Church in the U.S. Virgin Islands, which lost \$2,000,000. Most of the money represented endowment funds for youngsters at two Catholic elementary schools in St. Croix, the poorest of the U.S. Virgin Islands.
5. The Fire and Police Pension Association of Colorado, which had \$60 million invested.

We request a detailed response to these questions as quickly as possible, and the fullest possible briefing on the pending action by your staff in advance of your Wednesday meeting. Your prompt attention to this matter will be appreciated.

Sincerely,


 Joe Barton
 Ranking Member


 Greg Walden
 Ranking Member
 Subcommittee on Oversight and Investigations

cc: The Honorable Kathleen L. Casey
 Commissioner

The Honorable Elisse B. Walter
 Commissioner

The Honorable Luis A. Aguilar
Commissioner

The Honorable Troy A. Paredes
Commissioner